IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.1464 OF 2003
IN
SUIT NO.3316 OF 2001
WITH
NOTICE OF MOTION NO.1465 OF 2003
IN
SUIT NO.3317 OF 2001

Vipul H. Shah ...Plaintiff
Vs.
N.L.Upadhyay ...Defendant

Ms.Rubia Taneja i/b. Mr. Bharat Mehta for Plaintiff
None for for Defendant

CORAM: SMT.R.S.DALVI,J.
DATED: 5TH AUGUST, 2005

P.C.

1. The Plaintif has filed these Suits. The Plaintiff took out a Summons for Judgment. The Summons for Judgment came to be dismissed for default on 22nd April, 2003.

2. It is the Plaintif's case that the day prior thereto the Plaintiff had telephonic conversation with his Advocate who was to attend to the hearing after undergoing a medical checkup since the matter was low on Board. However, when he attended Court, the Summons for Judgment was dismissed. He contacted the Advocate for Defendant who had no objection for restoration. It could not be restored because the Court was otherwise busy. Hence, this Notice of

Motion.

3. The Notice of Motion has been served upon the Defendant's Advocate. Defendant's Advocate has endorsed in respect of the service of the copy of the Notice of Motion on the docket of the duplicate Notice of Motion. The Plaintiff's Advocate has shown the original endorsements of service. The Plaintiff has filed the affidavit of service. The parties require to be heard on merits. The Notice of Motion is made absolute in terms of prayer clause (a).

(SMT.R.S.DALVI,J.)